

PHYSICAL ENVIRONMENT

28-39-162. Nursing facility physical environment; construction and site requirements. Each nursing facility shall be designed, constructed, equipped, and maintained to protect the health and safety of residents, personnel, and the public.

(a) All new construction and modifications shall comply with building codes, ordinances, and regulations enforced by city, county, or state jurisdictions.

(1) Where codes, ordinances, and regulations are not in effect, the owner shall conform to the uniform building code, as in effect in 1991.

(2) New construction, modifications and equipment shall conform to the following codes and standards:

(A) Title III of the Americans with disabilities act, 42 U.S.C. 12181, effective as of January 26, 1992; and

(B) "Food service sanitation manual," health, education, and welfare (HEW) publication no. FDA 78-2081, as in effect on July 1, 1981.

(b) Site requirements. The location and development of a site upon which a facility is to be constructed, or an existing facility expanded, or an existing building converted for use as an adult care home, shall meet the following physical requirements:

(1) Site location. The general location of the site shall be:

(A) Served by all-weather roads or streets;

(B) accessible to physician services, fire and other emergency services, medical facilities, churches, and population centers where employees can be recruited and retained;

(C) sufficiently remote from noise sources which would cause day or night average sound levels to exceed 65 decibels. The average day or night sound level shall be the A-weighted energy equivalent sound level for a 24-hour period with an additional 10 decibel weighting imposed on the equivalent sound level occurring during the night-time hours of the following day (10:00 p.m. to 7:00 a.m.). For the purposes of this regulation the term decibel is a unit for measuring the volume of a sound equal to 20 times the logarithm to the base 10 of the ratio of the pressure of sound measured to the reference pressure which is 20 micropascals. Fast time averaging and A-measurements shall be made four feet 11 inches 1.5 meters above ground level at a site location, six feet seven inches or two meters from the exterior wall of the existing

or proposed building, on that side nearest the predominant noise source. If the proposed building location is unknown, the person testing the noise levels shall take measurements at a point six feet seven inches or two meters beyond the building setback line in the direction of the predominant noise source. Any noise measurements which are submitted for review shall be performed at the site within 180 days immediately before the date of the application for site approval. The department shall give consideration to the presence of time varying or seasonal noise sources during the selection of measurement periods in order to provide an accurate assessment of the noise environment of the site. The 24-hour measurement periods selected shall be representative of the maximum noise source activities likely to be encountered during any weekly period;

(D) free from noxious and hazardous fumes;

(E) at least 4,000 feet from concentrated livestock operations, including shipping areas, or holding pens;

(F) free of flooding for a 100- year period; and

(G) sufficient in area and configuration to accommodate the facility, drives, parking, sidewalks, recreational area, and community zoning restrictions.

(2) Site development. Development of the site shall conform to the following provisions.

(A) Final grading of the site shall provide topography for positive surface drainage away from the building and positive protection and control of surface drainage and freshets from adjacent areas.

(B) The facility shall provide off-street parking at a rate of six parking spaces for the first 3,000 square feet or 279 square meters of gross floor area of the facility, plus one additional parking space for each additional 1,000 square feet or 93 square meters of gross floor area of the facility.

(C) The facility shall provide parking spaces, sized and signed as reserved for the physically disabled, conforming to title III of the Americans with disabilities act, 42 U.S.C. 12181, effective as of January 26, 1992.

(D) All drives and parking areas shall be surfaced with a smooth all-weather finish. The facility shall not use unsealed gravel.

(E) Except for lawn or shrubbery which the facility may use in landscape screening, the

facility shall provide an unencumbered outdoor area of at least 50 square feet or 4.65 square meters per bed for recreational use and shall so designate this area on the plot plan. The licensing agency may approve equivalent facilities provided by terraces, roof gardens, or similar structures for facilities located in high- density urban areas. (Authorized by and implementing K.S.A. 39-932; effective Nov. 1, 1993; amended Feb.1, 1997.)